

BEFORE THE BOARD OF WATER WELL CONTRACTORS AND
THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 36.21.415 and 36.21.661 and) PROPOSED AMENDMENT AND
the repeal of ARM 36.21.413) REPEAL
pertaining to water well licensing and)
construction standards)

TO: All Concerned Persons

1. On May 17, 2022, at 10:00 a.m., the Department of Natural Resources and Conservation will hold a public hearing in the Montana Room, First Floor, located at 1539 Eleventh Avenue, Helena, Montana, and via Zoom, to consider the proposed amendment and repeal of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

a. Join Zoom Meeting: <https://mt-gov.zoom.us/j/87252984527?pwd=T0V1L1BrdHkvMVhMOGd2aAwMUM3dz09; Meeting ID: 872 5298 4527, Password: 719374>

b. Dial by Telephone: +1 646 558 8656 or +1 406 444 9999; Meeting ID: 872 5298 4527, Password: 719374

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than May 6, 2022, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, MT 59620-1601, 406-444-6615, or e-mail jsprice@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

36.21.415 FEE SCHEDULE

(1) Application and examination	
(a) Contractors	\$375 <u>575</u>
(b) Drillers	\$275 <u>475</u>
(c) Monitoring well constructor	\$375 <u>575</u>
(2) Re-examination	
(a) Water well contractor	\$175
(b) Water well driller	\$150
(c) Monitoring well constructor	\$175
(3) Renewal	
(a) Contractor	\$375 <u>575</u>

(b) Driller	\$275 475
(c) Monitoring well constructor	\$375 575
(d) Monitoring well constructor/water well driller	\$375 575
(e) Renewal - inactive (all licenses)	\$250
(f) Apprentice water well driller registration	\$50
(g) The apprentice water well driller registration fee is transferable and may be credited to a driller's license application fee for the year it is paid.	
(4) Late renewal	\$150
(a) In addition to the renewal fee, a fee will be charged for any license not renewed prior to July 10.	
(5) Duplicate license	\$50
(6) Copies of law and rules--per book	\$5 10
(a) <u>Licensed drillers</u> Drillers and contractors are exempt from the fee.	
(7) Exemption permits	\$100
(8) Construction standard variance inspection/follow-up	\$100

AUTH: 37-43-202, MCA

IMP: 37-43-202, 37-43-303, 37-43-305, 37-43-307, MCA

REASON: The Board of Water Well Contractors is required by 37-43-202, MCA, to set fees commensurate with the board's costs. The board evaluated program costs and revenues in January 2022 and determined a fee increase is necessary to pay program costs. The fee increase will affect 220 license holders and will increase annual revenue by \$44,000. The board also determined the fee for apprentice water well driller registration should be removed because the fees collected are not used for a clearly defined purpose and do not provide a direct benefit to apprentice water well drillers. Finally, the board is increasing the price of copies of law and rule books due to increased printing and mailing costs.

36.21.661 TEMPORARY CAPPING (1) At all times during the progress of the work, the contractor well driller shall protect the well in such a manner as to effectively prevent either tampering with the well or the entrance of foreign matter into it. Upon its completion, ~~he~~ the well driller shall provide and set a substantial screwed, flanged sanitary well cap or welded cap.

(2) Any well to be temporarily removed from service, temporarily abandoned due to a recess in construction, or any well to be temporarily abandoned before commencing service, shall be capped with a sanitary well cap, watertight seal, watertight welded steel cap, or threaded cap. ~~In all cases, caps shall be of steel or cast iron of at least three sixteenths of an inch in thickness.~~

(3) and (4) remain the same.

(5) Hydrants, frost-free hydrants, faucets, hose attachments, or discharge hardware that allow siphoning into a well cannot be directly attached to the well casing, pitless adapter, or well cap. Hand pumps, windmills, or other manually operated discharge hardware that have hose connections or attachments and that attach directly to the well casing shall use a vacuum breaker or an anti-siphoning device. Flowing wells shall be capped and sealed to comply with ARM 36.21.658.

AUTH: 37-43-202(3), MCA
IMP: 37-43-202(3), MCA

REASON: The board is required by 37-43-202(4), MCA, to adopt minimum standards designed to protect the state's ground water resource from degradation by contamination. The board has determined the word "temporary" should be removed, so that the protective effect of this regulation applies to both temporary capping that occurs if a driller must temporarily leave the well before it is finished, and also to capping the well once it is finished. The use of a sanitary well cap seals the well from insects, rodents, and other living creatures that may compromise water quality, and is an industry best practice. Restricting the placement of frost-free hydrants, faucets, hose attachments, and other hardware that allows siphoning into a well eliminates the potential to pollute the aquifer from siphoning back into the well and aquifer. Requiring a vacuum breaker or other anti-siphoning device for hand pumps, windmills, or other manually operated discharge hardware that have hose connections or attach directly to the well casing protects ground water resources from siphoning while still allowing the hand-pumps that are commonly used at campgrounds and in agricultural situations.

4. The department proposes to repeal the following rule:

36.21.413 RENEWALS

AUTH: 37-43-202, MCA
IMP: 37-43-307, MCA

REASON: The board has determined that requiring gummed labels to be placed on drilling rigs does not provide benefits commensurate with the approximately \$500.00 annual cost of providing such labels. Licensees now change drill rigs more often than they did when this rule was created, which increases the burden on both licensees and the board to provide labels. Additionally, subjecting licensees to penalties such as probation, suspension, or license revocation for failing to place a gummed label on a drilling rig is impractical. Finally, because gummed labels are designed to be placed on a window, the placement of stickers can limit vision by obstructing windows.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted in writing to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, MT 59620-1601, or e-mail at MBalukas@mt.gov, and must be received no later than 5:00 p.m. on May 17, 2022.

6. Martin Balukas, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will significantly and directly impact small businesses. Documentation of the above-stated determination is available upon request from the contact person in 2 above.

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

/s/ Cameron Boster
Cameron Boster
Rule Reviewer

Certified to the Secretary of State April 5, 2022.